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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,918	09/05/2003	Kenneth A. Watson	TEM639	8621

7590 11/15/2004

Ingrid McTaggart
534 SE 58th Ave
Portland, OR 97215

EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,918

Applicant(s)

WATSON, KENNETH A.

Examiner

Timothy L Maust

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15 and 21-24, drawn to an anti-siphon fuel filler assembly, classified in class 141.
- II. Claims 16-20, drawn to 16-20, classified in class 29.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the apparatus as claimed is not an obvious apparatus for making the product since it does not include apertures sized for allowing fuel to flow through the restriction structure.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Ingrid McTaggart on 11/2/04 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-15 and 21-24. Affirmation of this election must be made by applicant in replying to this

Art Unit: 3751

Office action. Claims 16-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings filed on 9/5/03 are informal, since the letters, numbers and lines are not uniform in nature throughout the Figures.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Keller.

In regard to claims 1, 5, 6, 11, 21, 23 and 24, the Keller reference discloses an anti-siphon "fuel filler assembly" 10 comprising a "tube" 12, a "first crimp" 16, a "second crimp" 27, a "restriction structure" (unlabeled at bottom of tube), "arms" 29 and "apertures" 31 as claimed.

In regard to claims 2 and 22, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

In regard to claim 3, see "spokes" (defined by the surface area surrounding openings 19).

In regard to claim 4, see "deflection structure" 56 and 58.

In regard to claim 7, see column 4, line 30.

In regard to claim 8, the "crimps" are "inward" as seen in Figures 2 and 3.

In regard to claim 9, see "openings" 31.

Claims 1, 2 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kettler.

In regard to claims 1 and 10-15, the Kettler reference discloses a "fuel tank" 10, a "filler tube" 14 and an "anti-siphon insert" 24 having "apertures" (defined by the space between the rings of insert 24) and "first crimp" 118 and "second crimp" 114, as claimed.

In regard to claim 2, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Fellows et al. reference discloses an anti-siphon device, similar to Applicant's device.

Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L Maust whose telephone number is (703) 308-3390. The examiner can normally be reached on Tue. - Fri. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
11/2/04